Supreme Court, U.S.
FILED

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No. :_____

In the

Supreme Court of the United States

October Term, 2002

ANNE LOCKSLEY,

Petitioner,

v.

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, ET AL,

Respondents.

On Petition For Writ of Certiorari
To The United States Court of Appeals
For The Second Circuit

PETITION FOR WRIT OF CERTIORARI

ANNE LOCKSLEY
Attorney and Counselor-at-law
360 East 88th Street - Apt. 33B
New York, New York 10128
(212) 369-5644

Petitioner Pro Se

DICK BAILEY SERVICE (212) 608-7666 (718) 522-4363 (516) 222-2470 (914) 682-0848 Fax: (718) 522-4024
1-800-531-2028

61 pp

QUESTIONS PRESENTED FOR REVIEW

I. When new facts and conditions would make of acts committed unreasonable acts, does respondent Fried, Frank, Harris *et al*'s commission of unreasonable acts to trade restrain petitioner Locksley, and, to monopolize a part of interstate commerce against petitioner Locksley, subject respondent Fried, Frank, Harris *et al* to federal jurisdiction within the scope of the Sherman Act under the Clayton Act?

II. Given that when, by the nature and consequence of the acts which new facts and conditions would make unreasonable for the purpose of allegation of jurisdiction under the Clayton Act under the Sherman Act, not only is the trade in the case at bar restrained but in the act so are all trades in the attempt at least, are the damages and penalties provided for within the scope of the Clayton Act under the Sherman Act sufficient remedy of harm inflicted?

PARTIES

1. Anne Locksley,
   Plaintiff-Appellant-Petitioner *Pro Se*
   Attorney and Counselor-at-Law
   360 East 88th Street, Apt. 33B
   New York, New York 10128
   (212) 369-5644

2. Fried, Frank, Harris, Shriver & Jacobson, Inc.,
   Respondent
   One New York Plaza
   New York, New York 10004
   (212) 859-8000

3. Joseph Stern, Respondent
   Fried, Frank, Harris *et al*
   One New York Plaza
   New York, New York 10004

4. Howard Adler, Respondent
   Fried, Frank, Harris *et al*
   One New York Plaza
   New York, New York 10004

5. Janice McAvoy, Respondent
   Fried, Frank, Harris *et al*
   One New York Plaza
   New York, New York 10004

6. Arthur Kaufman, Respondent
   Fried, Frank, Harris *et al*
   One New York Plaza
   New York, New York 10004

7. Paul Jacobson, Respondent
Fried, Frank, Harris *et al*
One New York Plaza
New York, New York 10004

8. Frederick Fogel, Respondent
Fried, Frank, Harris *et al*
One New York Plaza
New York, New York 10004

9. Joanne Ganek, Respondent
Fried, Frank, Harris *et al*
One New York Plaza
New York, New York 10004

10. Peter V.Z. Cobb, Respondent
Fried, Frank, Harris *et al*
One New York Plaza
New York, New York 10004

CORPORATE DISCLOSURE STATEMENT
NOTATION OF OWNERSHIP

INISLE FILMS, INCORPORATED
Formed September 17, 2002 in the State of New York
Anne Locksley, Attorney and Counselor-at-Law, Incorporator

I, Anne Locksley, Attorney and Counselor-at-Law, and, Incorporator of INISLE FILMS, INCORPORATED, am the sole stockholder of 100% of stocks of ownership of INISLE FILMS, INCORPORATED.

Date: 3/6/03

Signature: _____

Anne Locksley,
Attorney and Counselor-at-Law,
OWNER, INISLE FILMS, INCORPORATED

Anne Locksley
360 E. 88th Street, Apt. 33B
New York, New York 10128
(212) 369-5644

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CITATION TO OPINION

The United States District Court for the Southern District of New York ordered dismissal of plaintiff's case without answer from defendants and without providing discovery, in orders in content defamation and prejudice. The orders are reproduced in the Appendix. The United States Court of Appeals for the Second Circuit upheld appellate jurisdiction and dismissed on procedural deficiencies arguably by petitioner not deficiencies and in the alternative disregardable in the substantial interests of justice. The orders are reproduced in the Appendix.

JURISDICTION

Within the provisions of Rule 10(a) and Rule 10(c), CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI, of the RULES OF THE SUPREME COURT OF THE UNITED STATES, petitioner Locksley alleges United States Supreme Court jurisdiction.

In order filed January 23, 2003, and, in order filed January 3, 2003, and, in order filed January 3, 2003, and in order filed November 12, 2002, the United States Court of Appeals for the Second Circuit so far departed from the accepted and usual course of judicial proceedings, and, sanctioned so far a departure from the accepted and usual course of judicial proceedings by the United States District Court of the Southern District of New York as for compelling reasons to call for an exercise of the supervisory power of the United States Supreme Court, the decision of an important question of federal law conflicting with relevant decisions of the Supreme Court of the United States.

Alleging jurisdiction under the Clayton Act, section 4 and 16, under the Sherman Act, §1 and §2, petitioner Locksley filed complaint in the United States District Court of the Southern District of New York on November 10, 2001, and, on December 10, 2001 filed motion for summary judgment, respondents Fried, Frank, Harris *et al*'s restraint of petitioner Locksley's trade, and, respondents Fried, Frank, Harris *et al*'s monopolization of a part of interstate commerce against petitioner Locksley anticompetitive and undue in means, and, undue in means unreasonable within the scope of relevant decisions of the United States Supreme Court pertaining to bases of opinion testimony by experts, Federal Rules of Evidence Rule 702 and Rule 705, with respect to scientific, technical, and other specialized knowledge.

Respondents Fried, Frank, Harris *et al* moved for dismissal without answer and without providing discovery on

the ground the holidays (not identified by name or date) were approaching, frivolous argument.

Departing from the accepted and usual course of judicial proceedings so far as to call for a grant of appellate jurisdiction, U.S.D.C., S.D.N.Y. District Court Judge Chin stayed all proceedings and in final order entered February 1, 2002 dismissed petitioner Locksley with prejudice and defamation.

On March 9, 2002, petitioner Locksley filed petition for appeal in the United States Court of Appeals for the Second Circuit, simultaneously with service to respondents and to the Clerk of the District Court, U.S.D.C., S.D.N.Y.

Respondents Fried, Frank, Harris *et al* moved for dismissal of appeal without answer to complaint and without providing discovery and without answer to appeal on the ground all holidays and Saturdays and Sundays are days counted in addition to non-holiday Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, for interval computation for appeal, frivolous argument.

U.S.D.C., S.D.N.Y. District Court Judge Chin in multiple orders issued through to the end of July, 2002 dismissed petitioner Locksley's appeal of U.S.D.C., S.D.N.Y. District Court Judge Chin's orders, with prejudice and defamation repeating.

United States Court of Appeals for the Second Circuit, in orders filed November 12, 2002, January 3, 2003, January 3, 2003, and, January 23, 2003, granted respondents Fried, Frank, Harris *et al*'s motion for dismissal of appeal without answer to complaint and without providing discovery and without answer to appeal on the ground all holidays and Saturdays and Sundays are days counted in addition to non-holiday Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, for interval computation for appeal, frivolous argument.

In content prejudice and defamation, orders filed by U.S.D.C., S.D.N.Y., D.C. Judge Chin remove from lawful

remedy, lawfully pursued, commission of frauds of a nature and of a consequence unconstitutional, depriving petitioner Locksley of lawful remedy lawfully pursued, both with respect to specific and general damages accorded by federal acts and with respect to general damages sought by petitioner Locksley on the ground unconstitutional defrauding of petitioner Locksley of due administration of justice disgraces and embarrasses petitioner Locksley, a citizen of the United States of America, and, an attorney and counselor-at-law, sworn to uphold the Constitution of the United States of America, an officer of the court, admitted to practice by the Appellate Division of the First Judicial Department of the Supreme Court of the State of New York, admitted to practice by the United States District Court for the Southern District of New York, admitted to practice by the United States District Court for the Eastern District of New York.

CONSTITUTIONAL PROVISIONS, FEDERAL STATUTES AND RULES INVOLVED IN THE CASE

1. **The "Clayton Act", Sec. 4.** That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefore in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

2. **The "Clayton Act", Sec. 16.** That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the Untied States having jurisdiction over the parties...

3. **The "Sherman Act", Sec. 1.** Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is declared to be illegal.

4. **The "Sherman Act", Sec. 2.** Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several states, or with foreign nations, shall be deemed guilty of a felony...

5. **The Constitution of the United States, Article I, Section 8[3].** To regulate commerce...

6. **The Constitution of the United States, Article I, Section 8[8].** To promote the Progress of Science and Useful Arts, by securing for limited Times to Authors

and Inventors the exclusive Right to their respective Writings and Discoveries;

7. The Constitution of the United States, Amendment 1 (1791). Congress shall make no law... abridging the freedom of speech.

8. The Constitution of the United States, Amendment IV (1791). The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

9. The Constitution of the United States, Amendment V (1791). No person shall... be deprived of life, liberty, or property, without due process of law.

10. The Constitution of the United States, Amendment VII (1791). In Suits... no fact tried... shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

11. The Constitution of the United States, Amendment IX (1791). The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

12. The Constitution of the United States, Amendment XIV (1868), Section 1. All persons born... in the United States... are citizens... No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

13. FEDERAL RULES OF EVIDENCE FOR UNITED STATES COURT. *RULE 701. Opinion*

Testimony by Lay Witnesses. If the witness is not testifying as an expert, the witness' testimony is limited to those... inferences which are (a) rationally based.

RULE 702. Testimony by Experts. If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

RULE 705. Disclosure of Facts or Data Underlying Expert Opinion. ... The expert may in any event be required to disclose the underlying facts or data on cross-examination.

STATEMENT OF THE CASE

Respondents Stern and Fried, Frank, Harris *et al* offered practice employment to petitioner Locksley in September 1997 to commence in May 1998. Within two weeks of practice employment, offer for a second transaction assignment by respondent Kaufman accepted by petitioner Locksley, respondents Adler and McAvoy did not provide petitioner with a writing of assignment, and stated they would talk to partners because they "know them better" and are "already friends". Respondent Kaufman informed petitioner Locksley he would discuss assignments with her at a weekend recreational event of respondent Fried, Frank, Harris *et al*'s arrangement. When petitioner Locksley, with respondent Kaufman's permission, telephoned respondent Kaufman to determine whether instead they could talk about assignments over the telephone the middle of the day before, respondent Kaufman's wife answered and so soon as petitioner Locksley identified herself by name and employment began to threaten petitioner Locksley with offensive content causing petitioner to hang up, politely.

Shortly thereafter respondent Fried, Frank Harris *et al* requested petitioner to schedule an appointment at a location off their premises. Petitioner Locksley at the location discovered respondent Fried, Frank, Harris *et al* had paid two social workers and a psychiatrist to ask petitioner Locksley about a telephone call allegedly received by respondent Kaufman in the middle of the night the previous day. Petitioner Locksley did not make the call, did not know who did, did not know a call had been made, did not know of what its contents consisted, and said so. Respondent Fried, Frank, Harris's social workers and psychiatrist then speculated petitioner Locksley was "under stress" and had a "fugue state" such that she did not remember making the alleged call. Petitioner Locksley said she was not "under

stress" and not subject to "fugue states". Petitioner Locksley requested proof of the call and proof of the contents from respondent Fried, Frank, Harris *et al.* No proof of the call and no proof of the contents was provided.

Petitioner Locksley had and has had no contact whatsoever at any time with any employee at respondent Fried, Frank, Harris *et al* of a nonprofessional nature, on petitioner's part.

Respondent Fried, Frank, Harris *et al* informed petitioner Locksley the two social workers and psychiatrist were "busy" "preparing a medical report" and until the "medical report" was completed they declined further contact. The following year in July of 1999 petitioner Locksley received a letter from respondent Fried, Frank, Harris *et al* declining to offer petitioner resumption of practice employment.

Petitioner Locksley, an attorney and counselor-at-law sworn into practice by the Appellate Division of the First Judicial Department of the Supreme Court of the State of New York, on January 22, 2001, sworn into practice by the United States District Court of the Southern District of New York, on January 28, 2003, sworn into practice by the United States District Court of the Eastern District of New York, on January 29, 2003, was awarded her J.D. from Columbia University School of Law, in May, 2000.

Tender for offer of practice employment from respondent Fried, Frank, Harris *et al* occurred as a result of petitioner Locksley's participation in a practice employment agreement under the terms of which numerous leading law firms, brachiated nationally and internationally, accept or decline bids for interviews, on the basis of which invite or decline to invite interviewees for "call back" interviews at the firms, on the basis of which offer or decline to offer practice employment. Interviewing in corporate and litigation, media and telecommunications, participating in the August of 1997 round petitioner Locksley received six

"call backs", not further pursued after respondent Fried, Frank Harris *et al* requested petitioner Locksley to immediately accept their offer. Participating in August of 1998 petitioner Locksley received two "call backs". Participating in August of 1999 petitioner Locksley received two "call backs". No firm of forty-nine at least interview bid for however offered petitioner Locksley practice employment, previous contact or intent to contact respondent Fried, Frank, Harris *et al* expressly stated by interviewers due to appearance on petitioner's résumé of recognizable term of duration noted by petitioner as abbreviated for no reason.

Prior to being sworn in by the Appellate Division of the First Judicial Department of the State of New York, petitioner Locksley received a writing from respondent Fried, Frank, Harris *et al* stating deprivation of business was not in any way due to professional performance evaluation and instead was due to a "medical disability", and, a writing from respondent Fried, Frank, Harris *et al* expressly implying permanent classification of petitioner as "ill", defamation, inquiry, "I hope you are well," three years later, defamation and fraud.

Petitioner Locksley was known to respondent Fried, Frank, Harris *et al* prior to her interview accepted in August of 1997 not only as a law student, also, by virtue of her résumé, as in her previous career as a professor of research psychology, her Ph.D. granted by the University of Michigan. Petitioner Locksley's research publications in blind peer reviewed journals, her research funded by grants from the National Science Foundation and other research financing sources all blind peer reviewed, are in an area, now the first in psychology to receive Nobel Prize award recognition, reliably demonstrating, by appropriate application of statistical methods of analysis to data appropriately and defensibly quantified and collected to meet requirements for application of statistical models, errors of human inferential reasoning about cause and effect and about

prediction, generally referred to as "suboptimality". Anne Locksley and Charles Stangor, *Why versus How Often: Causal Reasoning and the Incidence of Judgmental Bias,* Journal of Experimental Social Psychology (1984). Anne Locksley, Christine Hepburn, and Vilma Ortiz, *Social Stereotypes and Judgments of Individuals: An Instance of the Base-Rate Fallacy,* Journal of Experimental Social Psychology, 23-42 (1982). Numerous independent researchers for many decades by now reliably demonstrate error in human inferential reasoning to be the cause of one hundred per cent discrepancy between data array and non-statistically restricted human judgment of frequency, covariation, cause and effect, and prediction, directly challenging expert credentials and experience alone, M.D., Ph.D., M.S.W., and, clinical practices, as not possibly any source of observation or knowledge of use of observation for the purpose of substitution of opinion for the results of research designed for the quantification and collection of observations to permit use of appropriate statistical models for data analysis.

The American Psychiatric Association, the American Association of Social Workers, the Clinical Psychology division of the American Psychology Association, its members in possession of knowledge of challenge from research psychologists to restrict their practices to research reliably and defensibly conducted, in conformity with the non-psychiatric areas of medical practice, for decades and to this day instead have dissociated themselves and their publishing customs and their professional conduct and practice from research foundation established by methods defensible as science. The public at large, pharmaceutical companies with research and development divisions comprising animal research, the media in its news and entertainment, television and film divisions, is not trained in expert opinion evaluation by way of scientific review of quantification and collection of observations with respect to the reliability and validity of

use of statistical models for data analysis, and are repeatedly lured by fraud.

A public, by now accustomed to routine news reports from such sources as the New England Journal of Medicine and congressional hearings regarding such issues as, for example, the cost/benefits of mammography for screening for breast cancer with elaboration of details concerning its accuracy rate for disease detection comprising research estimated rates of (a) false positives, or the erroneous test result disease is test found as present when it is not, (b) false negatives, or the erroneous test result disease is test found as not present when it is, (c) true positives, or the correct test result disease is test found as present when it is, and (d) true negatives, or the correct test result no disease is test found as present when it is not, is, simultaneously, subjected to routine news reports, novels, plays, and entertainment dramatizations and advertisements, disseminating with no research foundation challenge whatsoever "mental disease" concepts of no research foundation for claim any disease exists as so termed, including, anxiety, depression, paranoia, psychosis, schizophrenia, mania-depression, bipolar disorder, narcissistic personality disorder and any and all "mental disease" terms by way of classification of persons as "mentally ill" versus "mentally healthy". Fraudulent advertising includes advertising and released news reports of, for example, a bogus "research finding" by psychiatrists aired on ABC World News Tonight in January of 2003 in which Arizona psychiatrists displayed a CAT SCAN of a woman, diagnosed by the psychiatrists as schizophrenic due to her having spent the night in her car outside her home fearful of being an object of homicide. Having been diagnosed as schizophrenic, the psychiatrists prescribed pharmaceuticals for years which target brain synapse transmissions. These pharmaceuticals also contain known narcotics. The CAT SCAN results displayed different patterns of brain synapse transmission activity in the woman

than in another person the psychiatrists had not diagnosed as schizophrenic or prescribed pharmaceuticals for. The psychiatrists characterized the difference as evidence of schizophrenia in the woman, did not disclose the fact that the drugs prescribed and used for years by the woman are developed to alter brain synapse transmission activity and account completely for the CAT SCAN results displayed, and, did not present any CAT SCAN results randomly sampled from the population at large prior to psychiatric diagnosis and prior to psychiatric prescription of pharmaceuticals, and prior to psychiatric hospitalization, the only results at all of which sampling can be used for further collection of independently quantifiable observations to determine whether any such differences naturally occur, and, if so, are predictive and by what extent of any other differences observable.

Fraudulent claims include released American Psychiatric Association announcements reported without challenge in December 2002 in The Wall Street Journal of increased investments in psychiatric facilities, for a stay of indeterminable length in the "emotionally troubled" are invited to volunteer, in exchange for, after "hospitalization", "diagnosis" with respect to a list of terms including "anxiety", "depression", and so on, after which "duration of hospitalization" in months and years is a matter of psychiatrists' opinion, as is whether they can be permitted "out" and if so to see which "movies". The American Psychiatric Association, in advertising false imprisonment by way of the word hospitalization, in its announcement does not disclose research requirement for determination as to whether any term it disseminates applies with any accuracy at all to any person to score an individual with a test result correlating at all with a test score at a different time, or, correlating at all with any behaviorally observable and measurable differences between persons so scoring and persons not so scoring. Research psychologists measuring anxiety and depression

routinely obtain no evidence of pathology, low estimates of score reliability among the items on anxiety and depression scales, low estimates of score reliability between time one of administration of a measure and time two never exceeding a correlation statistic r averaging between .20 and .30, such that error incurred in predicting depression or anxiety scores from time one to time two is 91% or greater with respect to a person, and, low estimates of score validity between score value and other behaviorally observable measurable differences, such that error incurred in predicting other behaviorally observable measurable differences with scale score values is 96% or greater with respect to a person; measures not usable therefore for classification of individuals.

Psychiatric diagnosis in and of itself has been demonstrated by research psychologists for decades as 100% error.

The American Psychiatric Association, in co-advertising with pharmaceutical companies lured into research and development of drugs by hypotheses, untested, also exposed by research as 100% error for inference of cause with respect to an observable effect, fraudulently misrepresents depression in local and network television advertising airing in 2002 as a "medical condition" when, actually scores on the items comprising the depression scale, sum without error for two weeks, an outcome advertised as "symptoms" of "two weeks duration". In fact responses to items on the depression scale sum in the identical direction by chance as a function of the number of items, the response format provided, and the number of persons responding, which, then readministered two weeks later, further sum in the identical direction by chance as a function of the above as a function of repeated sampling. Item responses *always* have an error component, and, in the example of depression, a two week error component of 96% or more. *Only* by comparison with the error component can *any* inference be drawn with respect to whether interior emotional states self reported with words, such as a feeling described as depression, and its synonyms,

are indicative of a phenomenon which then must be researched with respect to whether it is indicative of illness, rather than, for instance, circumstance of similar duration. In addition, the "medical condition" alleged to exist is disclosed as "possibly" due to brain synapse transmission problems of no specification.

Nevertheless, all "mental illness" terms are relentlessly circulated as if completely reliable and valid in concept and use. None are.

A mother of two daughters aged 17 and 15, Petitioner Locksley receives flyers in the mail routinely from psychiatric practices and foundations provided access to parents' addresses by schools, and, by school-based parent associations, in which commonplace activities, such as applying to college, or for another example, parental conversation with children on topics including substance abuse, premarital sexual activity, applying to college, are presumptuously regarded as areas of psychiatric and social worker "counseling", due to, so claimed, for instance, college applications being a "symptom" of "self esteem difficulties", "human sexuality difficulties" and so on. Measures of self esteem, for instance, when used for prediction with respect to a person have error rate of 96% or greater. Psychiatrists, social workers, and so on are not known for childrearing skills nor would petitioner Locksley subject her children or any she would have had or have to the horror of discovery of parental fraudulent professional choice originating in failure to master difficult research skills. That clinical practices are investigated as "pharmaceutical hotbeds of abuse" is routinely reported in The New York Times, which nevertheless, ignorant of expert opinion evaluation, also repeatedly bemoans virtually homicidal activity as routine in homes and facilities for the normal lifespan long "mentally ill", defaming with reckless disregard for accuracy, and, in promotion of fraudulent circulation of these terms in one of its reporters' movies, with malicious intent.

Respondent Fried, Frank, Harris *et al* committed fraud by way of fraudulent corporate practice in co-conspiracy with ongoing fraudulent professionals falsely advertising expert credentials for fraudulent purposes with no excuse and with no justification for defense as medical practice, prohibited by the laws of the United States of America, governing expert opinion.

Persons otherwise concealed providing proof of attorney knowledge and local attorney knowledge not characteristic of non-attorneys in petitioner Locksley's experience, identified themselves in speech completely discriminable to petitioner Locksley as evidence of her senses as respondent Fried, Frank, Harris *et al* attorneys as of on or around mid-December 2000 by means of a communication system. The communication technology makes use of directional sound technology as for instance brought to commercial use unidirectionally by a corporation, demonstrated on an ABC News World News Tonight broadcast aired in July, 2002, in this instance brought to use bidirectionally in accompaniment with speech detection technology also publicly known of. It imposes conversation normally paced, with no time zone lags between petitioner Locksley and transmitters self-identified as respondent Fried, Frank, Harris *et al* attorneys, with communication capability equivalent to cell phones so far as petitioner Locksley can determine, inasmuch as transmission and detection providing for a discriminable conversation bidirectionally transpires wheresoever petitioner Locksley goes.

Its communication capability with respect to bidirectional visual transmission, inasmuch as speech transmitted confirms high detail surveillance capability, whereas visual transmission, so far as petitioner Locksley can determine, remains pallid, high contrast, provides recipient with not more than familiar cartoon character degree of recognition.

Petitioner Locksley, attorney, advised and advises self-identifying parties to cease and desist and to restrict

approach to named and addressed by way of ordinary legal means. Petitioner Locksley, attorney, advised and advises self-identifying parties that communications systems even when bidirectional remain liable as unlawful unless their operation incorporates means (e.g. portable remote control) providing for cessation by either a callee or by a caller equitably, thereby equitably enabling consent for use and willingness for use with respect to duration, location, and content of communications, for the caller and for the callee equitably. Disregarding petitioner Locksley, attorney, advice parties self-identifying as respondent Fried, Frank, Harris *et al* continue to impose operation of their communication technology against petitioner Locksley.

Harm resulting includes distraction from freely chosen concentration and freely chosen allocation of attention due to volume and content of transmitted speech, and, deprivation of privacy freely sought and procured, for personal, familial, social, professional, and commercial lawful objectives, as confirmed in ongoing operation of communications technology imposed without petitioner Locksley's consent and upon informed of content without petitioner Locksley's willingness.

On April 26, 2001 petitioner Locksley filed a complaint of criminal harassment with the New York Police Department, #5244, receiving on October 20, 2001 confirmation of investigation from Captain Donald K. Sullivan, dated August 24, 2001.

On July 26, 2001 petitioner Locksley filed a complaint with the Federal Trade Commission, receiving on September 23, 2001 confirmation of referral to the Federal Bureau of Investigation, FTC Ref. No. 1551238, dated September 6, 2001.

REASONS FOR GRANTING WRIT

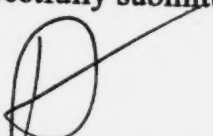
I. All medical practice would be tortious and criminal but for with respect to any instance of medical practice sufficient excuse and sufficient justification.

The accomplishment of the mathematical foundation for statistical models permitting inferential reasoning with observations quantified and sampled in compliance with requirements for their use occurred in the main throughout the end of the 1800s and the first two decades of the 1900s. Whereas by the 1930s the nonpsychiatric areas of medical practice voluntarily restricted forms of defamation, and, bodily invasion, and, privacy invasion, and, liberty restraint, and, false imprisonment, to practice justified by research foundation established by methods defensible as science, the psychiatric area did not, nor did its topic equivalent areas in psychology (clinical), and social work (counseling). Without sufficient excuse and without sufficient justification from research foundation established by methods defensible as science, psychiatric clinical practice is a violation of Article I, Sec. 8[3], Article I, Sec. 8[8], Amendments I, IV, V, VII, IX, XIV of the Constitution of the United States. *Daubert v. Merrell Dow Pharmaceuticals, Inc.* 113 S.Ct. 2786, 125 L. Ed 2d 469 (1993).

II. The formation of hypotheses by lay and expert alike in and of itself gives neither sufficient excuse nor sufficient justification.

Research conducted by methods defensible as science routinely demonstrates reliance solely on use of conjecture is 100% error, types of errors precisely defined with normative probability theory, as conjunction fallacy, base rate fallacy, illusory correlation, mathematical truth, fact legally admissible in the case at bar. Psychiatric terminology arising in conjecture should be brought within the scope of rules for expert opinion challenge as insufficient excuse and as insufficient justification for reliance for classification of any person absent use of tests, measures, and appropriate use of statistical methods for estimation of error and accuracy, and, should be brought within the scope of rules for lay opinion challenge as not rationally based inferences and not admissible therefore. *Daubert v. Merrell Dow Pharmaceuticals, Inc.* 113 S.Ct. 2786, 125 L. Ed. 2d 269 (1993). Petitioner's case prevails on the merits and judgment of injunctive relief and damages should be granted.

Respectfully submitted,



ANNE LOCKSLEY,
Attorney and Counselor-at-law
360 East 88th Street, Apt. 33B
New York, New York 10128
Tel. 212-369-5644
Petitioner *Pro Se*

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the City of New York, on the 23rd day of January two thousand and three,

Present:

Hon. Jon. O. Newman,
Hon. Robert A. Katzmann,
Hon. Reena Raggi,
Circuit Judges.

Filed
Jan. 23, 2003

Anne Locksley,

Plaintiff-Appellant,

v.

02-7516

Fried, Frank, Harris,
Shriver & Jacobson, *et al.*,

Defendants-Appellees.

Appellees move to dismiss the appeal for lack of jurisdiction on the ground that the appellant's notice of appeal was untimely filed in the district court. Upon due consideration, is ORDERED that the motion is granted. See Fed. R. App. P. 4(a)(1).

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: /s/ Lucille Carr

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION INFORMATION STATEMENT

Locksley

Docket Number:
02-7584

v.

Fried, Frank, Harris,

Motion for: Admission of exhibits as supplemental pleadings, under FRCP Rule 15(d)

Set forth below precise, complete statement of relief sought: Merits and penalties and damages as stated in complaint and appeal.

Moving Party: Anne Locksley, Plaintiff, Appellant/ Petitioner

Opposing Party: Fried, Frank, Harris

Moving Attorney: Anne Locksley, Attorney and Counselor-at-law, 360 East 88th Street, Apt. 33B, New York, NY 10128, 212-369-5644

Opposing Attorney: Bettina Plevan, Proskauer Rose, 1585 Broadway, New York, NY 10128, 212-969-2065.

Court-Judge/Agency appealed from: U.S.D.C., S.D.N.Y. File No 01 Civ 9920(DC)

Service **HAS** been effected

Signature of Moving Attorney:

/s/ Anne Locksley **Date:** 1/6/03

(NO ORDER MARKED - HANDWRITTEN NOTE AT TOP OF FORM INDICATING COPY -)

IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION INFORMATION STATEMENT

Locksley

Docket Number: 02-7584

v.

Filed: Dec. 19, 2002

Fried, Frank, Harris,

Motion for: FRE Rule 702 standards

Set forth below precise, complete statement of relief sought: FRE Rule 702 standards govern FRE Rules 401 and 402 and 701

Moving Party: Anne Locksley, Appellant/ Petitioner

Opposing Party: Fried, Frank, Harris

Moving Attorney: Anne Locksley, Attorney and Counselor-at-law, 360 East 88th Street, Apt. 33B, New York, NY 10128, 212-369-5644

Opposing Attorney: Bettina Plevan, Proskauer Rose, 1585 Broadway, New York, NY 10036

Court-Judge/Agency appealed from: U.S.D.C., S.D.N.Y. 01 Civ 9920(DC)

Consent of opposing counsel has **NOT** been sought or obtained; oral argument **IS** requested; argument date of appeal has **NOT** been set; service **HAS** been effected

Signature of Moving Attorney:

/s/ Anne Locksley **Date:** 12/16/02

ORDER

(Filed Jan. 3, 2003)

Before: Hon. José A. Cabranes, *Circuit Judge*

IT IS HEREBY ORDERED that the motion is DENIED.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

Date: Jan. 3, 2003 By: /s/ Lucille Carr

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

01-CV-9902

MOTION INFORMATION STATEMENT CHIN

Locksley

Docket Number:
02-7584 ONLY

v.

Filed:
Fried, Frank, Harris Oct. 24, 2002

Motion for: Judgment on the merits and for penalties demanded

Set forth below precise, complete statement of relief sought: Judgment on the merits with respect to complaint in trade restraint, invasion of privacy, fraud, libel, trespass, battery and assault, conversion, and, judgment for penalties of injunction and damages.

Moving Party: Anne Locksley, Plaintiff, Appellant/ Petitioner

Opposing Party: Fried, Frank, Harris

Moving Attorney: Anne Locksley, Attorney and Counselor-at-law, 360 East 88th Street, Apt. 33B, New York, NY 10128

Opposing Attorney: Bettina Plevan, Proskauer Rose, 1585 Broadway, New York, NY 10036

Court-Judge/Agency appealed from: U.S.D.C. for the Southern District of N.Y., 01 Civ 9920(DC)

Consent of opposing counsel has **NOT** been sought; oral argument **IS** requested; argument date of appeal has **NOT**

been set; request for relief **HAS** been made; this relief **HAS NOT** been previously sought in this court; service **HAS** been effected

Signature of Moving Attorney:

/s/ Anne Locksley **Date:** 10/23/02

ORDER

(Filed Nov. 21, 2002)

Before: Hon. Sonia Sotomayor, *Circuit Judge*

IT IS HEREBY ORDERED that the motion is referred to the panel hearing the appeal.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

Date: Nov. 21, 2002

By: /s/ Arthur Heller
Arthur M. Heller, Motions
Staff Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
(Filed Nov. 12, 2002)

Locksley

No. 02-7516(L) &
02-7584

v.

Fried, Frank, Harris

ORDER UNCONSOLIDATING APPEALS

In the interest of orderly procedure, the action of the Clerk's Office in consolidating these two appeals is vacated, and the two appeals are hereby separated from each other.

The first case, 02-7516, involves a late filed notice of appeal. Appellant sought relief from this Court to treat such notice as timely. By order dated Sept. 30, 2002, the Court denied the requested relief, in effect, sustaining the argument of appellee that the appeal was not timely filed. At that point, the Court could have dismissed the appeal sua sponte. However, since the second case, 02-7584, was consolidated with the first one, it would have been awkward to dismiss the entire consolidated matter when only the first was subject to dismissal. Thus, separation of the two appeals will enable the first one to be dismissed as late, and to leave the second one to be decided separately.

The second appeal, taken from the denial of a motion under FRAP 4(a)(5) seeking leave to file a late notice of appeal based upon excusable neglect, does appear to come within this Court's appellate jurisdiction. However, any

motions filed in the second case should bear the number 02-7584 ONLY.

FOR THE COURT:

Roseann B. MacKechnie, Clerk

Date: Nov. 12, 2002,

By: /s/ Stanley A. Bass
Stanley A. Bass, Staff Counsel

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION INFORMATION FORM

Locksley

v.

Docket Number:
02-7516 (L),
02-7584 CON)

Fried, Frank, Harris

Filed:
May 7, 2002

Movant: Anne Locksley, Apt. 33B, 360 East 88th Street, New York, NY 10128

ORDER
(Filed Sep. 30, 2002)

Before: Hon. Robert A. Katzmann, *Circuit Judge*

IT IS HEREBY ORDERED that the motion to allow notice of appeal to be deemed timely be and it hereby is DENIED.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

Date: Sep. 30, 2002

By: /s/ Arthur Heller
Arthur M. Heller,
Motions Staff Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION INFORMATION FORM

Locksley

v.

Fried, Frank, Harris

Docket Number:
02-7516 (L),
02-7584 (CON)

Filed:
May 7, 2002

Movant: Anne Locksley, Apt. 33B, 360 East 88th Street, New York, NY 10128

ORDER
(Filed Sep. 30, 2002)

Before: Hon. Robert A. Katzmann, *Circuit Judge*

IT IS HEREBY ORDERED that the motion for judgment and relief be and it hereby is DENIED.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

Date: Sep. 30, 2002

By: /s/ Arthur Heller
Arthur M. Heller, Motions
Staff Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION INFORMATION FORM

Locksley

v.

Docket Number:
02-7516 (L),
02-7584 (CON)

Fried, Frank, Harris

Filed:
May 3, 2002

Movant: Anne Locksley, Apt. 33B, 360 East 88th Street, New York, NY 10128

ORDER
(Filed Sep. 30, 2002)

Before: Hon. Robert A. Katzmann, *Circuit Judge*

IT IS HEREBY ORDERED that the motion for sanctions be and it hereby is DENIED.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

Date: Sep. 30, 2002

By: /s/ Arthur Heller
Arthur M. Heller,
Motions Staff Attorney

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
No. 01 Civ. 9920 (DC)

----------x

ANNE LOCKSLEY,

Plaintiff,

-against-

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON, *ET AL.*,

Defendants.

----------x

ORDER

(No Filing Stamp; Dated Jan. 25, 2002)

CHIN, D.J.

Pro se plaintiff Anne Locksley moves for an extension of time in which to file a notice of appeal. Judgment was entered on February 1, 2002. Accordingly, she should have filed her notice of appeal within 30 days, on or before March 4, 2002. In fact, her notice of appeal was not received by the *pro se* office until March 13, 2002.

Plaintiff argues that her failure to file a timely notice of appeal is a result of "excusable neglect" in that she relied on Fed. R. App. P. 26 and excluded Saturdays, Sundays, and holidays when she counted. Although Rule 26(a)(2) does exclude intermediate Saturdays, Sundays, and holidays, it does so only when the period in question is less than seven days. Otherwise, time is computed in calendar days, including Saturdays, Sundays, and holidays. Plaintiff misread Rule 26(a)(2).

The motion for an extension of time is denied. Plaintiff's misreading of Rule 26(a)(2) is not "excusable neglect" or "good cause." *See Weinstock vs. Cleary Gottlieb, Steen & Hamilton*, 16 F.3D 501, 503 (2d Cir. 1994) ("The excusable neglect standard can never be met by showing of inability or refusal to read and comprehend the plain language of the federal rules.") Moreover, although plaintiff is *pro se*, she is an attorney and a graduate of Columbia Law School. In addition, she repeatedly failed to meet deadlines in this case. Finally, as I have already found, plaintiff's amended complaint is incoherent and defective on its face as a matter of law. Defendants should not be required to bear the burden and expense of additional litigation.

SO ORDERED.

Dated: New York, New York
April 9, 2002

/s/ Denny Chin
DENNY CHIN
United States District Judge

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
No. 01 Civ. 9920 (DC)

----------x

ANNE LOCKSLEY,
Plaintiff,

-against-

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON, *ET AL.*,
Defendants.

----------x

ORDER
(No Filing Stamp; Dated Jan. 25, 2002)

CHIN, D.J.

On January 3, 2002, I issued a memorandum decision sua sponte dismissing the complaint in this action, which was filed pro se by plaintiff Anne Locksley, an attorney, against the law firm Fried, Frank, Harris, Shriver & Jacobson (the "Firm") and certain lawyers affiliated with the Firm. I dismissed the complaint because it was 103 pages long, did not contain a "short and plain statement" of plaintiff's claims, and was defective on its face as a matter of law.

In the memorandum decision, I provided that if plaintiff wished to file an amended complaint, she was to write a letter to the Court "requesting a conference to discuss the merits of her claims, her ability to prosecute the case pro se, and the filing of an amended complaint." A copy of the

memorandum decision was mailed to plaintiff the same day at the address she listed in the complaint.

Plaintiff responded almost immediately. By letter dated January 7, 2002, she advised the Court that she wished to file an amended complaint and requested a conference

The Court received plaintiff's letter, which had been sent by first class mail, on January 8, 2002. On January 9, 2002, the Court issued an order scheduling a conference for January 18, 2002, at 2:00 p.m. The order was mailed on January 9, 2002 to plaintiff at the same address to which the memorandum decision had been sent.

Although plaintiff should have received the order prior to the date of the conference, she did not appear on January 18, 2002. Counsel for defendants was present and the conference was held without plaintiff. I stated at the conference that I would issue an order allowing plaintiff to file an amended complaint and defense counsel indicated defendants' intention to move to dismiss the amended complaint.

Before the Court could issue an order, however, plaintiff submitted an amended complaint. The amended complaint is dated and was served on January 18, 2002, the date of the conference.

Plaintiff then sent another letter to the Court, dated January 22, 2002, in which she represented that she did not receive my January 9, 2002 order until January 22, 2002. She states in the letter that she filed an amended complaint "in the interest of clarification and brevity, as previously requested." It is surprising that plaintiff did not receive the January 9th order prior to the date of the conference, but even assuming she did not receive notice of the conference, she still disregarded the Court's instructions by filing an amended complaint without first attending a conference.

Notwithstanding these circumstances, the amended complaint was docketed on January 22, 2002. The new

complaint is indeed shorter than the original complaint, but it is still 58 pages long. More significantly, it is still incoherent. It now purports to assert:

> SIX IMPOSITIONS OF TRADE, INVASION OF PRIVACY WITH MALICIOUS INTENT AND WITH RECKLESS DISREGARD FOR ACCURACY, FRAUD, TRESPASS, BATTERY AND ASSAULT, AND CORPORATE ESPIONAGE

(Am. Compl, p. 1). It seeks damages consisting of attorneys' fees calculated at the rate of "$78,000.00 an hour" for a number of hours that total, when "quadrupled," "1,429,449,883.16 plus interest." (Id., p. 55). It alleges, as did the original complaint, that the Firm and attorneys affiliated with the Firm are somehow transmitting crude, obscene, and threatening speech into her apartment on the 33rd floor of her apartment building. It alleges further that plaintiff has lodged complaints about the voices to the Police Department, the Federal Trade Commission, the Federal Bureau of Investigation, and the Department of Justice.

I am hereby dismissing the amended complaint. Although plaintiff has cut the pleading almost in half, the amended complaint is still 58 pages long and still fails to provide a "short and plain" statement of plaintiff's claims. The amended complaint is still incoherent and still fails to provide defendants with fair notice of the claims against them. The legal deficiencies pointed out in my memorandum decision have not been cured. Plaintiff will not be able to prove, and no reasonable jury could find, that defendants are transmitting voices into her apartment that only she can hear.

The Court is mindful of its obligations pursuant to Fed. R. Civ. P. 17(c) to ensure that the rights of

"incompetent person[s]" are protected. Here, I make no determinations as to whether plaintiff falls within the scope of Rule 17(c) but I do conclude that "protection" is unnecessary in any event because plaintiff's claims lack merit.

Accordingly, the Court hereby dismisses the amended complaint sua sponte, with prejudice as to the claims actually asserted in the original and amended complaints, and without fees or costs. The Clerk of the Court shall enter judgment accordingly.

SO ORDERED.

Dated: New York, New York
April 9, 2002

/s/ Denny Chin
DENNY CHIN
United States District Judge

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
No. 01 Civ. 9920 (DC)

----------x

Anne Locksley,

Plaintiff,

-against-

Fried, Frank, Harris, Shriver & Jacobson, Inc., Joseph Stern, Howard Adler, Janice McAvoy, Arthur Kaufman, Paul Jacobson, Frederick Fogel, JoAnne Ganek, Peter V.Z. Cobb,

Defendants.

----------x

NOTICE OF MOTION
(Filed Jan. 22, 2002)

SIRS AND MADAMS:

PLEASE TAKE NOTICE that upon the annexed affidavit or affirmation of Anne Locksley, sworn to or affirmed _____, 2002, and upon the amended complaint filed by mail 01:39 P.M., January 18, 2002, plaintiff will move this Court, the Honorable Judge _____, U.S.D.J., in room ____, United States Courthouse, New York, New York 10007, on the ___ day of _____, 2002, at ____ or as soon thereafter as counsel can

be heard, for SANCTIONS pursuant to FRCP Rule 11(c) to be imposed on defendants and counsel for the defendants, Attorney Bettina Plevan for violation of FRCP Rule 11(b)(1).

Dated: New York, NY
1/21/02

/s/ Anne Locksley

Anne Locksley
Attorney and Counselor-at-law
360 East 88th Street, Apt. 33B
New York, New York 10128

HANDWRITTEN ORDER AS FOLLOWS:

This motion for Rule 11 sanctions is DENIED as procedurally defective and as lacking any merit.

SO ORDERED.

(illegible signature)

(USDJ 1/31/02)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
No. 01 Civ. 9920 (DC)

----------x

ANNE LOCKSLEY,

Plaintiff,

-against-

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON, *ET AL.*,

Defendants.

----------x

ORDER

(No Filing Stamp; Dated Jan. 9, 2002)

CHIN, D.J.

The Court has received pro se plaintiff's January 7, 2002 letter requesting a conference pursuant to the Court's Memorandum Decision dated January 3, 2002.

IT IS HEREBY ORDERED that the parties appear for a conference on January 18, 2002 at 2:00 p.m. in Courtroom 11A. In view of the circumstances, the Court again suggests plaintiff bring an attorney or adult family member or friend to the conference.

SO ORDERED.

Dated: New York, New York
April 9, 2002

/s/ Denny Chin
DENNY CHIN
United States District Judge

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
No. 01 Civ. 9920 (DC)

----------x
ANNE LOCKSLEY,

Plaintiff,

-against-

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON, *ET AL.*,

Defendants.
----------x

MEMORANDUM DECISION
(No Filing Stamp; Dated Jan. 3, 2002)

CHIN, D.J.

In this case, plaintiff pro se Anne Locksley, an attorney, sues the law firm Fried, Frank, Harris, Shriver & Jacobson (the "Firm") and certain lawyers affiliated with the Firm for restraint of trade, defamation, conversion, and "intrusion". On its face, the complaint is defective and must be dismissed. Accordingly, the complaint is dismissed sua sponte.

First, the complaint is 103 pages long. It does not contain a "short and plain statement of the claim[s] showing that [plaintiff] is entitled to relief." Fed. R. Civ. P. 8(a). Rather, it contains far too much detail and many passages have no relevance whatsoever to the claims

plaintiff seeks to assert. (See, e.g., Compl. At 56 ("Plaintiff has a sophisticated knowledge and understanding of contemporary evolutionary theory. Plaintiff also knows that the Church of England was founded in part to provide for the religious legitimacy of divorce, that Henry VIII had beheaded two of his six wives, and that Elizabeth I presided over the unification of Scotland, England and Ireland under one crown, reigned without marrying any one of her many suitors, and initiated the translation of the King James version of the Bible, the James in question her nephew, the son of her sister, whom Elizabeth had beheaded.")). At a minimum, plaintiff must re-plead to set forth a "short and plain statement" of her claims conforming to Rule 8. See Morgens Waterfall Holdings, L.L.C. v. Donaldson, Lufkin & Jenrette Sec. Corp., 198 F.R.D. 608, 609 (S.D.N.Y. 2001) (court may dismiss sua sponte complaint that violates Fed. R. Civ. P. 8).

Second, the claims are deficient on their face. Plaintiff alleges that after her first year at Columbia Law School, she interviewed in August 1997 with the Firm for a position the following year as a summer associate. She received an offer. Thereafter, beginning in the fall of 1997, she had some unpleasant or unusual encounters with persons affiliated with the Firm, including, for example, at a party for newly-hired employees. She worked for the Firm beginning in May of 1998 for several months. During the summer she again had unpleasant or unusual encounters with individuals affiliated with the Firm. During 1997 and continuing during the summer of 1998, she was taking medication and seeing a doctor. At some point during the summer, the Firm referred plaintiff for counseling. At the end of the summer, plaintiff's employment with the Firm terminated. Starting in August 1998, when she returned to Columbia Law School for her third year, plaintiff applied for employment with other firms but was unsuccessful. Later efforts to obtain employment also failed. She alleges that the Firm was

responsible for her inability to find another job because the Firm defamed her and made false statements about her to other law firms. The complaint also alleges that the plaintiff's home "was made the object of transmission, through its large windows, of speech. The speech is conveyed so long as Plaintiff is alone in her home and otherwise tuned too low for others to hear." (Compl. At 84-85). The complaint alleges that the speech is transmitted into plaintiff's home by the Firm and that the speech "is frequently obscene in content, includes death threats against Plaintiff, and threats to inflict bodily harm, sexual assault, and kidnapping." (Compl. At 86). In other words, plaintiff alleges that she is hearing voices in her apartment and she contends that the Firm is somehow transmitting the voices into her apartment (on the 33rd floor) in a way that only she can hear.

Plaintiff's complaint fails to state a claim upon which relief can be granted. The complaint simply does not state a claim under the Sherman Act for restraint of trade. See Goldberg v. Bell Atlantic, No. 99 Civ. 2889, 2000 WL 1459834, at *3 (S.D.N.Y. Sept. 29, 2000). The statute of limitations for defamation claims is one year. N.Y. C.P.L.R. §215(3) (McKinney 1990). The complaint does not specify who published or uttered what defamatory words when, but it would appear that the defamation allegedly occurred primarily in 1998 when plaintiff was seeking employment. Although she does refer to efforts to find employment with the last year (in January 2001), she does not specify what defamatory words were uttered by whom when. Hence, the defamation claims would appear to be time-barred and they are insufficiently pled in any event. The claims under the "Radio Act of 1927, as amended by the Communications Act of 1934," are based on the alleged transmission of "speech" into plaintiff's apartment; it is beyond reasonable doubt that plaintiff can prove no set of facts to support this claim. The complaint also makes

reference to the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the U.S. Constitution, but plaintiff has no claim under the Constitution against these defendants because they are purely private actors and no governmental action is alleged. There is a claim for conversion of a sculpture made by plaintiff's daughter that plaintiff apparently left at the Firm. This claim, however, is not a federal cause of action; as there appears to be no federal claim in the case, the Court declines to exercise supplemental jurisdiction over this claim. The Court is confident that if the Firm is able to locate the sculpture in question it will return it to plaintiff.

For these reasons, the complaint is dismissed sua sponte, without prejudice. Plaintiff has filed a motion for summary judgment; the motion is denied as moot.

Sua sponte dismissals are not favored, particularly where no notice or opportunity to be heard has been provided. Here, however, a sua sponte dismissal is appropriate in light of the nature of the complaint and, in particular, the allegations that the Firm is transmitting voices into plaintiff's apartment that only she can hear.

Moreover, I will give plaintiff an opportunity to file an amended complaint to correct the deficiencies described above. If plaintiff wishes to file an amended complaint, however, she must first write a letter to the Court on or before February 3, 2002, requesting a conference to discuss the merits of her claims, her ability to prosecute the case pro se, and the filing of an amended complaint. In view of the circumstances, the Court suggests plaintiff bring an attorney or adult family member or friend to the conference.

SO ORDERED.

Dated: New York, New York
April 9, 2002

/s/ Denny Chin
DENNY CHIN
United States District Judge

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
NO. 01 CIV. 9920 (DC)

----------X

LOCKSLEY

v.

FRIED, FRANK

----------X

NOTICE OF REASSIGNMENT
(Filed Dec. 21, 2001)

Pursuant to the memorandum of the Case Processing Assistant the above entitled action is reassigned to the calendar of JUDGE DENNY CHIN.

All future documents submitted in this action are to be presented in the Clerk's Office of the Southern District Court for filing and shall bear the assigned judge's initials after the case number.

The attorney(s) for the plaintiff(s) are requested to serve a copy of the Notice of Reassignment on all defendants.

James M. Parkison, CLERK

Dated: 1/8/02

By: /s/ Jennifer Oliet,
Deputy Clerk

CC: Attorneys of Record

PS Control
REASSIGNMENT FORM
Data Quality

Revised: July 26, 2001

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
No. 01 Civ. 9920 (DC)

----------x

ANNE LOCKSLEY,

Plaintiff,

-against-

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, *ET AL.*,

Defendants.

----------x

ORDER

(No Filing Stamp; Dated Dec. 27, 2001)

CHIN, D.J.

This case has just been reassigned to the undersigned. The Court has reviewed the correspondence submitted to Judge Casey

IT IS HEREBY ORDERED that defendants' time to respond to the complaint is extended until further order of the Court, and all proceedings in the case are stayed until the Court has had the opportunity to consider defendants' request for a pre-motion conference to discuss the filing of a motion to dismiss the complaint.

The Court will render a decision on the request for a pre-motion conference shortly.

SO ORDERED.

Dated: New York, New York
December 27, 2001

/s/ Denny Chin
DENNY CHIN
United States District Judge

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
NO. 01 CIV. 9920 (RCC)

----------X

LOCKSLEY

v.

FRIED, FRANK

----------X

NOTICE OF REASSIGNMENT
(Filed Nov. 29, 2001)

Pursuant to the memorandum of the Case Processing Assistant the above entitled action is reassigned to the calendar of JUDGE RICHARD C. CASEY.

All future documents submitted in this action are to be presented in the Clerk's Office of the Southern District Court for filing and shall bear the assigned judge's initials after the case number.

The attorney(s) for the plaintiff(s) are requested to serve a copy of the Notice of Reassignment on all defendants.

James M. Parkison, CLERK

Dated: 12/6/01

By: /s/ Dehann Lewis,
Deputy Clerk

Cc: Attorneys of Record

PS REASSIGNMENT FORM

Data Quality Control Revised: July 26, 2001

Supreme Court, U.S.
FILED
APR 10 2003

02-1324

IN THE

Supreme Court of the United States

ANNE LOCKSLEY,

Petitioner,

—v.—

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, et al.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

BETTINA B. PLEVAN
Counsel of Record
PROSKAUER ROSE LLP
1585 Broadway
New York, New York 10036
(212) 969-3000

Counsel for Respondents

STATEMENT PURSUANT TO RULE 29.6

Fried, Frank, Harris, Shriver & Jacobson does not have any corporate parents, subsidiaries or affiliates that are publicly traded.

COUNTERSTATEMENT OF QUESTIONS PRESENTED

1. Whether the Court of Appeals properly dismissed the appeal where Petitioner filed the notice of appeal 40 days after the District Court entered final judgment dismissing the action, and the appeal did not qualify for any of the exceptions to the requirement that a notice of appeal in a civil case be filed 30 days after final judgment is entered?

2. Whether the Court of Appeals properly found that the District Court did not abuse its discretion in finding that Petitioner failed to establish "good cause" or "excusable neglect" and denied the motion for an extension of time to file a notice of appeal where the Federal Rules that Petitioner, an attorney, claims to have "misread" in calculating the time within which to file the appeal are clear and unambiguous, and there is no interpretation of those Rules that supports Petitioner's claimed misreading?

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Lowry v. McDonnell Douglas Corp.,
211 F.3d 457 (8th Cir.),
reh'g denied, en banc, Nos. 99-1750, 99-1805,
2000 U.S. App. LEXIS 12174 (8th Cir. June 2), *cert. denied*, 531 U.S. 929 (2000) 7

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STATUTES AND RULES

28 U.S C. § 1254 (1) 1

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RESPONDENTS' BRIEF IN OPPOSITION

Petitioner, an attorney, seeks a writ of certiorari, apparently with the intent of arguing that she was improperly subjected to "medical practice" and that certain unspecified conclusions should not have been accepted as expert opinions. Her garbled arguments present no legal issues for review.

The procedural issues raised in the petition do not present questions warranting review by this Court. The order dismissing the appeal in Docket No. 02-7516 as untimely and the order affirming the denial of the motion for an extension of time in Docket No. 02-7584 were based upon undisputed facts and correct interpretations of federal law, and the petition presents no legal question warranting this Court's review. The decisions of the Court of Appeals are correct and do not conflict with any decision of this Court or of any Court of Appeals. Accordingly, further review is not warranted and the Petition for a Writ of Certiorari should be denied.

JURISDICTION

The U.S. Court of Appeals for the Second Circuit filed two Orders on January 23, 2003. The Petition for a Writ of Certiorari was filed on March 10, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

COUNTERSTATEMENT OF THE CASE

A. Background

Petitioner Anne Locksley is a graduate of Columbia Law School and an attorney admitted to practice in the New York State Courts and two federal district courts. (Pet. at 9).[1] Petitioner was employed as a summer associate at the law firm of Fried, Frank, Harris, Shriver & Jacobson ("Fried Frank") during 1998. (Pet. at 9). On November 9, 2001, she commenced this action (acting as attorney pro se) against Fried Frank and several of its partners (collectively "Respondents") in the District Court for the Southern District of New York, filing a 103-page complaint alleging claims under theories of antitrust, defamation, conversion and invasion of privacy. (Pet. App. at 23a).

On January 3, 2002, the District Court dismissed the complaint *sua sponte*, without prejudice, finding that it failed to state a claim or comply with the "short and plain statement" requirement under Fed. R. Civ. P. 8(a). (Pet. App. at 23a-26a). In the order, the District Court gave Petitioner an opportunity to amend her complaint with the precondition that she first attend a court conference. (Pet. App. at 26a). Petitioner failed to attend the conference scheduled for January 18, 2002. (Pet. App. at 17a). Nevertheless, that same day, she served an amended complaint of 58 pages. (Pet. App. at 17a, 18a).

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[1] References to "Pet. at ____" refer to pages of the Petition for a Writ of Certiorari. References to "Pet. App. at ____" are pages of the Appendices attached to the Petition. References to "Resp't App. at ____" are pages annexed hereto as Appendices.

By order dated January 25, 2002, the District Court dismissed the amended complaint *sua sponte*, this time with prejudice, holding that the amended complaint suffered from the same defects as the original complaint and noting the facial lack of merit to the clams being made as well as Petitioner's failure to comply with the Court's prior decisions. (Pet. App. at 18a). Final judgment was entered on February 1, 2002. (Pet. App. at 14a).

Forty days later, on March 13, 2002, Petitioner filed a notice of appeal in the District Court, purporting to appeal the dismissal of her amended complaint (Docket No. 02-7516). (Pet. App. at 14a; Resp't App. at 5a-6a, 7a).

B. The District Court's Denial of Petitioner's Request For An Extension Of Time To Appeal

On March 26, 2002, after being notified that her notice of appeal was untimely, Petitioner moved in the District Court, pursuant to Fed. R. App. P. 4(a)(5), for an extension of time to file a notice of appeal. (Resp't App. at 1a-8a). In support of her motion, Petitioner argued that she had relied on Fed. R. App. P. 26(a)(2) and Fed. R. Civ. P. 6 and excluded weekends and holidays when she calculated the 30-day period in which she had to file her notice of appeal. (Pet. App. at 14a; Resp't App. at 1a, 3a-4a). She argued that Fed. R. App. P. 4(a) and 26(a)(2), and also Fed. R. Civ. P. 6, contain "discrepant rules of computation" of time, and asked the District Court to deem her miscalculation excusable neglect. (Resp't App. at 1a, 3a-4a).

By order dated April 9, 2002, the District Court denied the motion, ruling that Petitioner had failed to demonstrate "good cause" or "excusable neglect" as required by Fed. R. App. P. 4(a)(5). (Pet. App. at 14a-15a). In addition to holding that Petitioner's "misreading" of Fed. R. App. P. 26(a)(2) was not

excusable neglect or good cause, the District Court noted that Petitioner was a law school graduate, an attorney and had "repeatedly failed to meet deadlines in th[e] case." (Pet. App. at 15a). Locksley filed a notice of appeal on May 8, 2002 (Docket No. 02-7584).

C. The Court of Appeals' Review

On November 27, 2002, Respondents moved to dismiss the appeal from the February 1 judgment (Docket No. 02-7516) on the grounds that it was untimely and sought summary affirmance of the District Court's April 15 order denying Petitioner's motion for an extension of time to file a notice of appeal (Docket No. 02-7584).

The Court of Appeals, by Order filed on January 23, 2003, dismissed the appeal from the February 1 judgment (Docket No. 02-7516), holding that it lacked jurisdiction because Petitioner's notice of appeal was untimely filed. (Pet. App. at 1a). In a second Order, filed the same day, the Court of Appeals summarily affirmed the District Court's decision, ruling that the Court had "properly denied [Petitioner] an extension of time in which to file an appeal under Fed. R. App. P. 4(a)(5)." (Resp't App. at 9a-10a).

D. Petition For Writ of Certiorari

On March 10, 2003, Petitioner filed this Petition for a Writ of Certiorari. Petitioner ignores the fact that her suit was dismissed on procedural grounds and apparently seeks to argue her case to this Court on the "merits." (Pet. at 19). Although her arguments are disjointed and difficult to comprehend, she purports to state two "reasons for granting [the] writ." Specifically, she argues that (1) she was improperly subjected to "medical practice" and (2) certain conclusions should not have been (allegedly) accepted as expert opinions. (Pet. at 18-

19). Thus, Petitioner does not appear to be challenging the dismissal of her appeal or the affirmance of the District Court's decision denying her motion for an extension of time to file a notice of appeal or raising them as issues for review.

REASONS WHY THE WRIT SHOULD BE DENIED

I. THE COURT OF APPEALS PROPERLY DISMISSED PETITIONER'S APPEAL FROM THE FEBRUARY 1, 2002 JUDGMENT AS UNTIMELY

Although not expressly addressed by Petitioner, there is no basis to grant review to decide whether the Court of Appeals improperly dismissed her appeal as untimely. Because this claim raises no novel issues, disputed questions of law or conflict between the circuits, certiorari should be denied.

Pursuant to 28 U.S.C. § 2107(a) and Fed. R. App. P. 4(a)(1)(A), a party who wishes to appeal in a civil case must file a notice of appeal within 30 days of the entry of the judgment or order from which the appeal is taken. This time limit is "mandatory and jurisdictional." *Browder v. Dir., Dep't of Corr.*, 434 U.S. 257, 264 (1978) (quoting *United States v. Robinson*, 361 U.S. 220, 229 (1960)); *see also Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 61 (1982) (per curiam). The rule serves the purpose of fixing the point at which litigation shall end -- if an appeal has not been taken before that date -- thereby relieving a prospective appellee from the appellant's demands. *See Browder*, 434 U.S. at 264; *Matton Steamboat Co. v. Murphy*, 319 U.S. 412, 415 (1943).

The District Court entered the final judgment dismissing Petitioner's amended complaint on February 1, 2002. Although Petitioner's time to appeal began to run on February

1, she did not file her notice of appeal until 40 days later, on March 13, 2002. Accordingly, her notice of appeal was indisputably untimely and was properly dismissed for lack of appellate jurisdiction.

II. THE COURT OF APPEALS PROPERLY AFFIRMED THE DENIAL OF PETITIONER'S MOTION FOR AN EXTENSION OF TIME IN WHICH TO FILE A NOTICE OF APPEAL

Petitioner does not explicitly seek review of the denial of her motion for an extension of time to file a notice of appeal. The District Court did not grant an extension in this case because Petitioner could not make the required showing of "good cause" or "excusable neglect." The Court of Appeals properly reviewed that decision for abuse of discretion. *See Goode v. Winkler*, 252 F.3d 242, 245 (2d Cir. 2001); *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993). Because the Court of Appeals' decision to affirm the denial of the motion for an extension of time does not raise a novel issue, disputed question of law or conflict between the circuits, this Court's review is not warranted and the petition should be denied.

When a party aggrieved by a judgment fails to file a timely notice of appeal, the district court, upon a finding that the failure was the result of "good cause" or "excusable neglect," has limited authority to grant additional time in which to file the notice. Fed. R. App. P. 4(a)(5). This Court has identified four factors that should be considered in evaluating whether a party's neglect is excusable:

> we conclude that the determination is at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission. These include . . . the danger of

> prejudice to the [non-movant], the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.

Pioneer, 507 U.S. at 395. The four factors, however, do not carry equal weight, and "the excuse given for the late filing must have the greatest import." *Lowry v. McDonnell Douglas Corp.*, 211 F.3d 457, 463 (8th Cir.), *reh'g denied en banc*, Nos. 99-1850, 99-1805, 2000 U.S. App. LEXIS 12174 (8th Cir. June 2), *cert. denied*, 531 U.S. 929 (2000); *see Graphic Communications Int'l Union, Local 12-N v. Quebecor Printing Providence, Inc.*, 270 F.3d 1, 5 (1st Cir. 2001).

Petitioner's sole argument in support of her motion to extend her time to appeal was that in calculating the 30-day time period in which she was required to file her appeal, she eliminated weekends and holidays. She claimed that Fed. R. App. P. 4(a)(1)(A) and 26(a)(2) (and Fed. R. Civ. P. 6) contain "discrepant rules of computation" of time, and asked the District Court to deem "the discrepancy excusable neglect." There is, however, no reading of the law under which the reason offered by Petitioner for her untimely filing could satisfy the requirement of "excusable neglect" or "good cause."

Petitioner's claim that she "misread" the rules is precluded by the express language of Fed. R. App. P. 26(a)(2) and Fed. R. Civ. P. 6, which is clear and unambiguous. Fed. R. App. P. 26(a)(2) states that: "in computing any period of time specified in these rules or in any local rule . . . [e]xclude intermediate Saturdays, Sundays, and legal holidays *when the*

period is less than 7 days, unless stated in calendar days."[2] Fed. R. App. P. 26(a)(2) (emphasis added). Fed. R. Civ. P. 6(a) provides similarly: "When the period of time prescribed or allowed *is less than 11 days*, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation." Fed. R. Civ. P. 6(a) (emphasis added). The language of the Rules is plain and unambiguous, and there is no interpretation that authorizes intervening weekends and holidays to be excluded from the calculation when the period at issue is 30 days.

Petitioner presented no justification for her alleged misreading of unambiguous rules, and the Court of Appeals properly found that the District Court acted well within its discretion in denying her motion for an extension of time. Indeed, this Court has recognized that "inadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute 'excusable neglect.'" *Pioneer*, 507 U.S. at 392. In this case, Petitioner's untimeliness was not the result of a plausible misconstruction of the Federal Rules, but rather a failure to comply with the plain language of the Rules. Petitioner is an attorney admitted to practice in New York, and should have been able to read the express language of the Rules. Moreover, even if she were not an attorney, her *pro se* status could not excuse her failure to read or understand Fed.

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[2] When Petitioner filed her notice of appeal, Fed. R. App. P. 26(a)(2) provided for the exclusion of weekends and legal holidays from the calculation of time when the time period was less than seven days. Effective December 1, 2002, Rule 26(a)(2) was amended to track the language of Fed. R. Civ. P. 6(a), and now provides that intermediate weekends and legal holidays should be excluded when the period is less than eleven days. *See* Fed. R. App. P. 26(a)(2) (as amended)

R. Civ. P. 26(a)(2). *See McNeil v. United States,* 508 U.S. 106, 113 (1993) ("[W]e have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel."); *Edwards v. INS*, 59 F.3d 5, 8 (2d Cir. 1995) (holding that *pro se* litigants "generally are required to inform themselves regarding procedural rules and to comply with them").

Under the facts of this case, the Court of Appeals properly found that the District Court did not abuse its discretion. It was clearly within the District Court's discretion to focus on the reason for Petitioner's late filing and find that Petitioner's claimed misreading of Fed. R. App. P. 26(a)(2) did not constitute excusable neglect. *See Graphic Communications,* 270 F.3d at 8 (affirming denial of motion for extension of time where counsel believed he had 60, not 30, days to file notice of appeal, and noting that "[t]o find this neglect to be 'excusable' would only serve to condone and encourage carelessness and inattention in practice before the federal courts, and render the filing deadline set in Fed. R. App. P. 4(a)(1) a nullity"); *Advanced Estimating Sys., Inc. v. Riney*, 130 F.3d 996, 998 (11th Cir. 1997) ("That the four-part *Pioneer* standard for determining excusable neglect applies does not change existing law that a lawyer's misunderstanding of clear law cannot constitute excusable neglect. If it could, almost every appellant's lawyer would plead his own inability to understand the law when he fails to comply with a deadline."); *Halicki v. Louisiana Casino Cruises, Inc.*, 151 F.3d 465, 469 (5th Cir. 1998) (ruling that trial court abused its discretion in finding "excusable neglect" where counsel claimed he filed late notice of appeal because he mistakenly believed he had timely moved for new trial under Fed. R. Civ. P. 6(e) and thereby suspended his time to appeal), *cert. denied,* 526 U.S. 1005 (1999); *Weinstock v. Cleary, Gottlieb, Steen & Hamilton*, 16 F.3d 501, 502-03 (2d Cir. 1994) (noting that misconception of appellate rules did not constitute excusable

neglect; "[t]he excusable neglect standard can never be met by a showing of inability or refusal to read and comprehend the clear language of the federal rules") (citations omitted).

Accordingly, there can be no question that, given the circumstances of this case and the explanation Petitioner offered for her untimely filing, the Court of Appeals properly affirmed the District Court's decision denying the motion for an extension of time to file a notice of appeal.

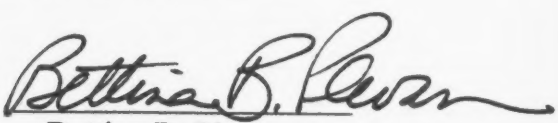
CONCLUSION

For each of these reasons, this Court should deny the Petition for a Writ of Certiorari.

New York, New York
April 7, 2003

Respectfully submitted,

PROSKAUER ROSE LLP

By: 

Bettina B. Plevan
1585 Broadway
New York, New York 10036
(212) 969-3000
Counsel for Respondents

Of Counsel:
Amy F. Melican

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANNE LOCKSLEY,	:	
Plaintiff,	:	MOTION FOR AN EXTENSION OF TIME TO FILE A NOTICE OF APPEAL
-against-	:	
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, INC., JOSEPH STERN, HOWARD ADLER, JANICE McAVOY, ARTHUR KAUFMAN, PAUL JACOBSON, FREDERICK FOGEL, JOANNE GANEK, PETER V.Z. COBB,	:	01 Civ. 9920 (DC) Docket No.
Defendants.	:	

Pursuant to Fed. R. App. P. 4(a) (5), Locksley respectfully requests leave to file the within notice of appeal out of time. Locksley desires to appeal the judgment in this action entered on February 1, 2002, but failed to file a notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

The required number of days from date of entry of judgment was computed by Locksley using the Federal Rules of Appellate Procedure Rule 26, such that Locksley excluded Saturdays and Sundays and legal holidays and the day of the

event, such that the 30 day time interval was overestimated according to the Pro Se Office.

/s/Anne Locksley
Signature

360 E. 88th Street, Apt. 33B
Address
New York, NY 10128
Tel. No. (212) 369-5644

DATE: March 25, 2002

Note: You may file this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

Form 2-CA/SNY-8/87

"MOTION FOR EXCUSABLE NEGLECT"

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANNE LOCKSLEY,	:	
Plaintiff,	:	
-against-	:	01 Civ. 9920 (DC)
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, INC., JOSEPH STERN, HOWARD ADLER, JANICE McAVOY, ARTHUR KAUFMAN, PAUL JACOBSON, FREDERICK FOGEL, JOANNE GANEK, PETER V.Z. COBB,	:	
Defendants.	:	

STATE OF NEW YORK)
) SS: 241 78 4833
COUNTY OF NEW YORK)

I, Anne Locksley, am plaintiff in the above-entitled action, and respectfully move this Court to grant a 30-day extension in which to process plaintiff's notice of appeal received on March 13, 2002. The reason why I am entitled to the extension is that Federal Rules of Appellate Procedure Rule 26 provides for exclusion of Saturdays, Sundays and legal holidays, and day of act that begins the period even when the period is less than 7 days, and I computed the 30 days after

entry of judgment appealed from accordingly, to the date March 18, 2002. The Federal Rules of Civil Procedure Rule 6 also provides for exclusion of Saturdays, Sundays and legal holidays, and day of act that begins the period, and computation of the 30 days after entry of judgment appealed from results in the date March 18, 2002.

The Pro Se Office deems receipt on March 13, 2002 untimely within 30 days as of entry on February 1, 2002 without further statement as to discrepant rules of computation that would cause the Pro Se Office to deem receipt untimely if this motion is not received prior to April 2, 2002.

WHEREFORE, I respectfully request that the Court grant the within motion to deem receipt timely as of March 13, 2002 or in the alternative to deem the discrepancy excusable neglect, resulting from computation of the 30-day interval using FRCP Rule 6 and FRAP Rule 26 rather than the calendar inclusively of Saturdays, Sundays, and legal holidays.

Dated: March 25, 2002
New York, New York

/s/Anne Locksley
Signature

360 E. 88th Street, Apt. 33B
Address
New York, NY 10128
City, State & Zip Code

Form 1

NOTICE OF APPEAL TO A COURT OF APPEALS

FROM A JUDGMENT OR ORDER OF A DISTRICT COURT

United States District Court for the Southern District of New York

File Number 01 Civ. 9920 (DC)

ANNE LOCKSLEY,	:	
Plaintiff,	:	NOTICE OF APPEAL
-against-	:	
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, INC., JOSEPH STERN, HOWARD ADLER, JANICE McAVOY, ARTHUR KAUFMAN, PAUL JACOBSON, FREDERICK FOGEL, JOANNE GANEK, PETER V.Z. COBB,	:	
Defendants.	:	

Notice is hereby given that Anne Locksley, Plaintiff in the above-named case, hereby appeals to United States Court of Appeals for the Second Circuit from an order of dismissal sua sponte with prejudice as to the claims actually

asserted, entered in this action of the 1 day of February, 2002.

(S) /s/Anne Locksley
Appellant Pro Se

Address

360 E. 88th Street, Apt. 33B
New York, NY 10128

PRO SE OFFICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
OFFICE OF THE CLERK
U.S. COURTHOUSE
500 PEARL STREET
NEW YORK, NY 10007

JAMES M. PARKISON
CLERK

Date: March 18, 2002

Re: Locksley v. Fried, Frank, Harris, Shriver & Jacobson, Inc., et al.
01 Civ. 9920 (DC)

Dear Sir or Madam:

Please be advised that this office received your notice of appeal on March 13, 2002. Under Rule 4 of the Federal Rules of Appellate Procedure, a notice of appeal must be filed with the clerk of the district court within 30 days after the entry of the judgment or order appealed from. Since the judgment dismissing the action was entered on Feb. 1, 2002, your notice of appeal was received untimely.

Rule 4(a) (5) provides that you may ask the district court for a 30-day extension in which to file your notice of appeal upon showing excusable neglect. If you wish to ask the court for this extension, you must submit a motion stating the reason(s) why your appeal was received untimely. The motion should be entitled "Motion for Excusable Neglect". It has to be served on the other parties. The enclosed forms for a "Motion for Excusable Neglect" plus "Affirmation of Service" should be filled out, signed in ink and returned to the Pro Se Office.

Your notice of appeal will be held in this office until Apr. 2, 2002. If we have not received your motion for an extension of time by that date, your notice of appeal will be processed as untimely. If you have any questions concerning this letter, please contact this office.

Sincerely,
/s/
The Pro Se Office
(212) 805-0175

encs.

S.D.N.Y
01-CV-9920
Chin, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the City of New York, on the 23rd day of January two thousand and three,

Present:

Hon. Jon O. Newman,
Hon. Robert A. Katzmann,
Hon. Reena Raggi,
Circuit Judges.

Anne Locksley,

Plaintiff-Appellant,

v. 02-7584

Fried, Frank, Harris, Shriver & Jacobson, *et al.*,

Defendants-Appellees.

Appellees move for summary affirmance of the district court's order denying the appellant's motion for an extension of time in which to file an appeal under Fed. R. App. P. 4(a)(5).

Appellant moves for various forms of relief including, *inter alia*, judgment in her favor, penalties imposed on the appellees, and permission to submit more documents relating to the present appeal. Upon due consideration, it is ORDERED that the motion for summary affirmance is granted, and the appellant's pending motions are denied, as the district court properly denied the appellant an extension of time in which to file an appeal under Fed. R. App. P. 4(a)(5).

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: /s/ Lucille Carr